

REMARKS

The Substitute Specification provides additional information concerning the characteristics that are inherently exhibited by the new 'Meivaleir' variety. Such Substitute Specification generally conforms to that filed on August 6, 2003 in parent Application No. 09/933,174, and previously was found to comply with 35 U.S.C. § 112.

For the reasons indicated in detail during the prosecution of parent Application No. 09/933,174 there is urged to exist no sound basis to continue to deny patent protection under 35 U.S.C. § 102(b).

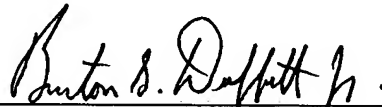
The examination and allowance of the Application are respectfully requested.

Respectfully submitted,

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Date: February 12, 2004

By:



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Marked-Up Copy of Substitute Specification Filed February 12, 2004**BOTANICAL/COMMERCIAL CLASSIFICATION***Rosa hybrida* / Climbing Rose Plant**VARIETAL DENOMINATION**

cv. 'Meivaleir'

Summary of the Invention

The new variety of *Rosa hybrida* Climbing rose plant was created by artificial pollination wherein two parents were crossed which previously had been studied in the hope that they would contribute the desired characteristics. The female parent (i.e., the seed parent) ~~of~~ was the 'Meipalsar' variety (non-patented in the United States). The male parent (i.e., the pollen parent) was the product of the pollination of the 'Korwest' variety (non-patented in the United States) and the 'Circus' variety (United States Plant Patent No. ~~2,074~~ 1,382). The parentage of the new variety can be summarized as follows:

$$('Meipalsar' \times ('Korwest' \times 'Circus')).$$

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The seeds resulting from the above pollination were sown and small plants were obtained which were physically and biologically different from each other. Selective study resulted in the identification of a single plant of the new variety.

It was found that the new variety of rose plant of the present invention possesses the following combination of characteristics:

- (a) exhibits a climbing growth habit,
- (b) abundantly forms attractive double blossoms having a
luminous yellow-orange coloration,
- (c) forms dense medium green semi-glossy foliage that
contrasts well with the light-colored blossoms,
- (d) exhibits good vigor, and
- (e) is particularly well suited for growing as attractive
ornamentation in the landscape.

The new variety well meets the needs of the horticultural industry and can be grown to advantage in parks and gardens.

The new variety of the present invention can be readily distinguished from its ancestors. More specifically, the 'Meipalsar' variety displays copper-colored blossoms, the 'Korwest' is a Shrub rose plant with ovoid-shaped buds, and the

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'Circus' variety is a Floribunda rose plant with urn-shaped buds. In contrast the buds of the new variety display a conical configuration.

The new variety has been found to undergo asexual propagation in France by a number of routes, including budding, grafting, and cuttage. Asexual propagation by the above-mentioned techniques in France has shown that the characteristics of the new variety are stable and are strictly transmissible by such asexual propagation from one generation to another.

The new variety has been named the 'Meivaleir' variety.

Brief Description of the Photograph

The accompanying photograph shows as nearly true as it is reasonably possible to make the same, in a color illustration of this character, typical specimens of the plant parts of the new variety. The rose plants of the new variety were two years of age and were observed during June while budded on *Rosa froebelli* understock and growing in outdoors at Le Cannet des Maures, Var, France. Dimensions in centimeters are indicated at the bottom of the photograph.

Fig. 1 - illustrates a specimen of a young shoot;

Fig. 2 - illustrates a specimen of a floral bud before the
opening of the sepals;

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Fig. 3 - illustrates a specimen of a floral bud at the opening
of the sepals;

Fig. 4 - illustrates a specimen of a floral bud at the opening
of the petals;

Fig. 5 - illustrates a specimen of a flower in the course of
opening;

Fig. 6 - illustrates a specimen of an open flower - plan
view - obverse;

Fig. 7 - illustrates a specimen of an open flower - plan
view - reverse;

Fig. 8 - illustrates a specimen of a fully open flower - plan
view - obverse;

Fig. 9 - illustrates a specimen of a fully open flower - plan
view - reverse;

Fig. 10 - illustrates a specimen of a floral receptacle
showing the arrangement of the stamens and
pistils;

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Fig. 11 - illustrates a specimen of a floral receptacle
showing the arrangement of the pistils (stamens
removed);

Fig. 12 - illustrates a specimen of a flowering stem;

Fig. 13 - illustrates a specimen of a main branch;

Fig. 14 - illustrates a specimen of a leaf with three leaflets -
plan view - upper surface;

Fig. 15 - illustrates a specimen of a leaf with five leaflets -
plan view - under surface; and

Fig. 16 - illustrates a specimen of a leaf with seven leaflets -
plan view - upper surface.

Detailed Description

The chart used in the identification of the colors is that of the Royal Horticultural Society (R.H.S. Colour Chart). The description is based on the observation of two year-old plants during June while budded on *Rosa froebelli* understock and growing outdoors at Le Cannet des Maures, Var, France. The coloration in more common terms precedes reference to the chart in some instances. Such terminology is to be accorded its ordinary dictionary significance.

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CLASS: Climbing.

PLANT:

height -- approximately 150 to 170 cm in
cane length at the end of the
growing season.

habit -- climbing.

BRANCHES:

color -- young stems: near Yellow-Green
Group 146C.

-- adult wood: near Yellow-Green
Group 146A and 146B.

thorns -- size: medium (as illustrated).

-- quantity: moderately numerous (as
illustrated).

-- color: near Greyed-Orange Group
164B at the base and near Greyed-
Orange Group 164A and 164B at the
tip.

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- configuration: deeply concave on the lower surface.
- stipules -- adnate, pectinate, and rather broad.
- petioles -- near Yellow-Green Group 146B on its upper surface and near Yellow-Green Group 153D on the under surface.
- leaflets -- number: 3, 5, and 7.
- shape: elliptic, the base is generally symmetrical and obtuse and the tip is generally symmetrical with a broad point (as illustrated).
- serration: regular (as illustrated).
- texture: consistent, and rather firm.
- general appearance: very dense, medium green, and semi-glossy foliage.

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- color (young foliage):
upper surface: near Green Group
139A and widely suffused with
Greyed-Red Group 178B.
- under surface: near Yellow-Green
Group 147C and widely suffused
with Greyed-Red Group 178B.
- color (adult foliage):
upper surface: near Green Group
139A.
under surface: near Yellow-Green
Group 147C.

INFLORESCENCE

number of
flowers

- usually one or two flowers per stem
on the main stem there commonly
are approximately 7 to 10
inflorescences with each

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- inflorescence commonly bearing one or two flowers. The inflorescences appear on both old and new wood.
- bearing -- Commonly a shoot will first bear blooms at its terminus and upper axils and subsequently may develop axillary flowers below later in the same season. In the subsequent year flowers develop further down along older portions of the stem.
- peduncle pedicel -- near Yellow-Green Group 146D and suffused with near Greyed-Red Group 178C in coloration, and medium in size with aciculae and prickles. The length commonly ranges from approximately 31 to 60 mm, and the diameter commonly ranges from approximately 2 to 2.8 mm. On average the length

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commonly is approximately 39 mm
and the average diameter is
approximately 2.3 mm. Flowers
opening in the early part of the
bloom cycle typically have pedicel
lengths in the lower two-thirds of
the range and flowers opening in the
middle of the season commonly
have pedicel lengths in the upper
two-thirds of the range.

sepals

- upper surface: elongated, tomentose,
and near Greyed-Green Group
194B.
- under surface: near Yellow-Green
Group 146B with slight anthocyanin
coloration and commonly with only
a few short extensions (as
illustrated).

buds

- shape: conical.

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- flower
- length: approximately 2.5 cm on average.
 - color:
 - upper surface: Chrome Yellow, near Yellow-Orange Group 14C, and lightly suffused with Empire Rose, Red Group 48C.
 - under surface: Chrome Yellow, near Yellow-Orange Group 14C, and lightly suffused with Empire Rose, Red Group 48C.
 - shape: double and cup-shaped.
 - diameter: approximately 9 to 10 cm on average.
 - color (when opening begins):
 - upper surface: Chrome Yellow, near Yellow-Orange Group 14C, and lightly suffused with Empire Rose, Red Group 48C.

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under surface: Chrome Yellow, near
Yellow-Orange Group 14C, and
lightly suffused with Empire Rose,
Red Group 48C.

-- color (when blooming):

upper surface: Chrome Yellow, near
Yellow-Orange Group 14C, and
lightly suffused with Empire Rose,
Red Group 48C.

under surface: Chrome Yellow, near
Yellow-Orange Group 14C, and
lightly suffused with Empire Rose,
Red Group 48C.

-- color (at end of blooming):

upper surface: Chrome Yellow, near
Yellow-Orange Group 14C, and
lightly suffused with Empire Rose,
Red Group 48C.

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under surface: Chrome Yellow, near
Yellow-Orange Group 14C, and
lightly suffused with Empire Rose,
Red Group 48C.

-- petal number: approximately 25 to
39 on average.

-- stamen number: commonly
approximately 52 on average.

-- filament color: near Yellow-Orange
Group 17C.

-- Anther color: near Yellow-Orange
Group 17C.

-- Pollen: present in a moderate
quantity and pale yellow in
coloration.

-- Pistil number: commonly
approximately 73 on average.

-- Style color: near Red Group 50A.

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- Stigma color: near Yellow Group
13A.
- petal drop: The petals commonly
detach cleanly under dry growing
conditions, and may persist
somewhat under rainy growing
conditions.
- fragrance: none.
- lasting quality: long on the plant.
A typical blossom commonly lasts
approximately 7 to 10 days on the
plant depending upon the
environmental conditions. Since the
plant is primarily intended for
providing ornamentation outdoors,
the longevity of the blossoms when
cut and placed in a vase has not been
evaluated.

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- petal shape: ~~with a cordate base and a reflexed tip~~ the tip is rounded, the base is obtuse, on the external petals the margin is reflexed and undulated, and on the internal petals the margin is undulated.
- receptacle: near Yellow-Green Group 146D in coloration, and funnel-shaped in longitudinal section.

DEVELOPMENT

- vegetation -- very vigorous and strong.
- blooming -- abundant.
- resistance to diseases -- very good with respect to Powdery Mildew and Black Spot even late in the growing season.